UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.122
17 November 1992

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Ninth session

SUMMARY RECORD OF THE 122nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 November 1992, at 10 a.m.

Chairman: Mr. VOYAME

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GE.92-14423 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

First supplementary report of Norway (CAT/C/17/Add.1)

1. At the invitation of the Chairman, Mr. Wille, Mr. Myhrer, Mr. Strommen and Ms. Nystuen (Norway) took places at the Committee table.

2. The CHAIRMAN, welcoming the Norwegian delegation, said that Norway's first supplementary report, due on 25 June 1992, had been submitted on precisely that date. That was an historic and exemplary precedent which other States parties would do well to emulate.

3. Mr. WILLE (Norway), commending the Committee on the serious and constructive way in which it conducted its work and stressing that States parties were responsible for helping to make the reporting procedure as meaningful as possible, drew attention to the continued relevance of his country's initial report (CAT/C/5/Add.3), considered by the Committee at its second session in May 1989, and to the information contained in the core document (HRI/CORE/1/Add.6).

4. With regard to paragraph 45 of the supplementary report (CAT/C/17/Add.1), he said that the investigations of 368 alleged cases of large-scale police brutality in the city of Bergen, which had been discussed in 1989, had resulted in only one charge; the investigation of more than 100 cases of alleged false accusations had resulted in 15 charges and 11 convictions, none of which had been appealed. No further information had been received concerning police brutality in Bergen, where the number of cases brought before the special investigative bodies mentioned in paragraph 4 of the report was no higher than elsewhere.

5. The Central Prison Regulations referred to in paragraph 37 of the report had been translated into English and would be transmitted to all prisons. Extracts in several other languages were already available in larger prisons.

6. Mr. SORENSEN (Country Rapporteur) recalled that Norway's initial report had been the first to be discussed by the Committee. The consideration of the first supplementary report, which Norway had submitted with commendable punctuality, offered a useful opportunity to assess four years of progress in giving effect to undertakings under the Convention and, in particular, to respond to criticisms and to remedy identified shortcomings.

7. Referring to paragraph 2 of Norway's initial report, he noted the statement that no amendment of internal legislation had been necessary before the ratification of the Convention. Paragraph 9 of the core document stated that "in the event of a conflict between domestic law and international law, Norwegian courts shall in principle apply domestic law". Paragraph 10 of the same document indicated that the statement that domestic provisions would prevail in cases of conflict between domestic law and rights or freedoms recognized in human rights treaties to which Norway was a State party was being increasingly challenged and that, so far, the Supreme Court had not

found that there had been a conflict between Norwegian law and a human rights instrument.

8. Since the basic idea of a law was to foresee conflict and to give guidelines to the courts and on the assumption that, sooner or later, a problem would arise, the absence from Norwegian law of any definition of torture might be a stumbling-block. He hoped that the so-called "dualistic approach" described in paragraph 10 of the core document would soon be abandoned and that the necessary changes and amendments would be made in Norway's domestic law, as suggested in the Convention. An opportunity of incorporating a definition of "torture or cruel, inhuman or degrading treatment or punishment" and declaring such treatment or punishment to be criminal might have been missed when the Storting had adopted a new provision of the Penal Code, as mentioned in paragraph 8 of the report.

9. With regard to alleged police brutality, he requested confirmation of his understanding that only 20 cases relating to the use of force by the police had been subjected to special investigation in 1988-1990 and asked whether there were districts in Norway where such incidents were more common than elsewhere and whether foreigners were involved to any significant extent. He also asked for further clarification of the statement in the last sentence of paragraph 45 of the report that "The Norwegian authorities have taken due note of Amnesty International's viewpoints in this matter."

10. Extradition was an increasingly burning issue throughout the world. He welcomed the inclusion in annex 2 to the report of the text of the 1988 Immigration Act, but said that the Committee would appreciate a brief account of how it actually worked. He asked whether foreigners could be denied entry to the country by the border police and turned back: if so and if they were refugees, were they sent back to the country of first asylum or elsewhere? What authority decided on the right to asylum: could its decision be appealed and, if so, in which court? Could a stay of extradition be granted on humanitarian grounds?

11. Norway's position with regard to the coercive measures referred to in paragraph 13 of the report was widely respected and note had been taken of its preference for the use of physical restraints only when absolutely necessary. In that connection, he asked what measures were taken in unfortunate cases where psychiatric patients were detained in prisons, but not in special psychiatric units.

12. In relation to paragraphs 17 and 18 of the report, he confessed that as a relative layman in legal matters, such detailed references to Norwegian law left him somewhat bewildered. He would leave closer scrutiny to other members of the Committee and merely ask whether there was a system of universal jurisdiction for persons who committed torture and similar acts. Had Norway acceded to the relatively new Convention which had been drafted by the Council of Europe and allowed convicted persons - subject to certain conditions - to serve their sentence in their home countries?

13. In connection with article 10 of the Convention (paras. 26-29 of the report), he noted that Norway was fortunate in having as citizens some of the most prominent human rights activists in the area of concern to the

Committee: he was thinking in particular of Professor Leo Eitinger and of Professor Astrid Heiberg, the former Minister of Social Affairs. Norway also had a number of excellent psychosocial institutes. The very best conditions therefore existed for education, training and information in respect of torture and yet, according to paragraph 29 of the report, there was "no systematic training of health personnel on the subject of recognizing and treating victims of torture in basic health and medical educational institutions in Norway". It was to be hoped that the shortcoming would soon be remedied in the training programmes not only of doctors, but also of nurses, physiotherapists and dentists: health personnel at all levels had a key role to play in combating torture, both in the practice of their profession and by creating greater public awareness of what torture involved.

14. On articles 11 (paras. 30 and 31) and 13 (paras. 35-38) of the Convention, Norway was to be congratulated on its rules and practices with regard to the custody of persons in detention and the treatment of prisoners. In that connection, he said that the European Committee for the Prevention of Torture would pay a periodic visit to Norway in 1993 and looked forward to fruitful discussions. Paragraph 39 of the report relating to article 14 of the Convention was excessively modest; he would have welcomed a cross-reference to paragraph 29. In Norway, refugees who were victims of torture or of organized violence received medical treatment: that was a matter of pride and it should be clearly spelt out.

15. In conclusion, he said that the supplementary report by Norway was admirably constructed, responded well to the Committee's comments in 1989 and would greatly facilitate its further work. Norway's support for the United Nations Voluntary Fund for Victims of Torture was also greatly appreciated.

16. Mr. KHITRIN (Alternate Country Rapporteur), commending the Norwegian delegation on the quality of its supplementary report, said that, as Mr. Sorensen had shown, the members of the Committee had gained much experience during the past four years; shortcomings in earlier reports had also been in great measure remedied. Norway's report, with its useful annexes, was a case in point.

17. Recalling the statement made by the representative of Norway at the Committee's 12th meeting in 1989 that, "although torture was not an urgent problem in Norway, his Government was fully aware of the need for constant vigilance", he asked what progress had been made by the Norwegian expert committee, which had been mentioned in the same statement and whose mandate was to make proposals on the way in which the major international human rights instruments could be incorporated in Norwegian legislation? Recent events, such as Norway's ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the adoption of the Immigration Act, were to be welcomed, but one outstanding omission from the corpus of Norway's domestic law was a definition of torture. Could that omission be explained?

18. With regard to paragraph 4 of the report, he asked for additional information on the nature of the cases referred to the "special investigative bodies" and for an update on the 20 cases relating to the use of force by the

police. He found it surprising that, in November 1992, statistics relating to cases reported to the investigative bodies in 1991 still seemed to be unavailable.

19. In Norway's oral introduction and in the report, reference had been made to the investigation of a large number of cases of alleged police abuse, in only one of which sufficient evidence had been found to charge a police officer with a criminal offence. Surely the number of cases brought suggested that an element of provocation of citizen might have been involved: further clarification on that matter would be welcome. Under what provisions of the law had persons charged with making false accusations been brought to trial and what penalties had been imposed on those found guilty? The last two sentences of the report (para. 45), which reflected a concern expressed by Amnesty International in connection with that matter, were particularly disturbing.

20. He requested further information on authority in respect of deprivation of liberty and the lawful period during which a person might be held in custody without being brought before a court.

21. Mr BURNS said that his questions, which might seem picayune, should not detract from his generally favourable assessment of the supplementary report. His main concern was with the jurisdiction of the Norwegian courts in certain circumstances and with the implications of what the core document described as the dualistic relationship between domestic law and international law. In his view, such an analytic approach resulted in a blurring of what the Convention was trying to achieve. In particular, failure to define the crime of torture diluted the moral stringency attaching to the conduct itself and the significance of the act: torture could not simply be assimilated to aggravated assault or homicide. It also made it virtually impossible for the competent officials to compile statistics, for domestic and any other purposes, on what the Convention defined, and Norway itself unofficially acknowledged to be, acts of torture. In requesting further information about cases relating to the use of force by the police, Mr. Khitrin had surely been asking for evidence that could help to determine whether or not such acts had been committed.

22. He had been impressed by Norway's clear and detailed account of circumstances under which extradition could or could not take place, but he was somewhat disturbed by the elliptical indication at the end of paragraph 22 of the report that extradition could also take place outside bilateral or multilateral arrangements. More information on such exceptions would be welcome.

23. Assuming that the dualistic approach applied - and no less a body than the Supreme court of Norway seemed to find that it did - and further assuming that the crime of torture had not been incorporated in legislation, how would the Norwegian courts deal with a case in which a person deemed unextraditable because of a real prospect that he or she would face torture as a consequence of expulsion was also a person who had committed torture and who had fled to Norway for that reason? Could that person be prosecuted in Norway? If so, in the absence of a definition of torture in Norwegian legislation, what charge could be brought?

24. Although such questions were hypothetical, they should encourage the Norwegian authorities to reconsider their position that the term "torture or cruel, inhuman or degrading treatment or punishment" did not need to be incorporated in the country's legislation.

25. Annex 4 of the report contained the 1981 regulations regarding compensation, article 1 of which indicated that reasonable compensation was recoverable for persons injured as a result of the crime of violence, and torture, by definition, was such a crime. However, he would appreciate an explanation of the statement made in article 6, paragraph 4, of the regulations that "Compensation is not granted for injury of a non-economic nature unless there are special reasons for so doing". In most cases, the victims of torture had suffered some form of physical or mental injury, but not necessarily an economic loss.

26. Mr. MIKHAILOV said that countries interested in improving their periodic reports should look to Norway as an example. It enjoyed what could be termed an almost ideal system with regard to international and domestic legislation to combat torture. Despite the country's exemplary legal system, however, torture did exist in Norway. He therefore asked the Norwegian representatives what they thought the main causes were, how torture could be eliminated, whether they were optimistic that torture could be eradicated once and for all or whether they believed that it would always exist.

27. With regard to paragraphs 26 to 29 of the report, he asked whether faculties of the law offered special courses which dealt with torture as a global phenomenon and approached it from the standpoint of international and domestic legislation. Although Norway had helped to draw up and had subsequently ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the report did not contain any assessment of that Convention and of how effective it had been for Norway.

28. Mr. GIL LAVEDRA said he regretted the fact that, at the current session, the Committee had had to ask questions about the same aspects of the Norwegian legal system and its implementation of the Convention as it had at its second session in 1989.

29. His main concern related to the incorporation of the Convention in domestic law. He particularly wished to know what was meant by the statement in the core document that the Convention was a "relevant source of law in Norway". He recognized that there was a dualistic relationship between domestic law and international law, but it was not clear which legislation took precedence and whether the Convention had been fully incorporated into domestic legislation. As far as he could see, the Convention was not part of domestic legislation and the courts were able to quote from it, but no more. The fact that Norwegian legislation did not contain a definition of torture automatically gave rise to problems with regard to the implementation of article 15 of the Convention, for example. A welcome development was the committee of lawyers which had been set up to investigate the conflict between Norwegian legislation and international instruments and which had been scheduled to submit a report during the first half of 1992. He asked what conclusions the Committee had reached in its report and which provisions of the Convention would be incorporated into domestic legislation.

30. Mr. LORENZO said that he agreed with Mr. Gil Lavedra about the problems involved in a dualistic approach to the relationship between domestic and international law and the need for Norway to bring its domestic legislation into line with the convention, especially article 2.

31. He pointed out that the Committee had agreed with the Under-Secretary-General for Human Rights, Mr. Blanca, that it would urge the delegations of States parties which had submitted reports under article 19 of the Convention to consider providing financial support for the United Nations Voluntary Fund for Victims of Torture. The Fund enabled States and private agencies to help alleviate the suffering of victims of torture throughout the world. As Norway had shown that it was committed to the improvement of human rights, he urged the Norwegian representatives to inform their Government of the Fund's existence and of the need for voluntary contributions.

32. Mr EL IBRASHI said that, although the report covered most of the outstanding questions, some points were still not clear. The first was, as already stated by other members of the Committee, the question of the implementation of the Convention. In many countries, the Convention automatically became part of domestic legislation once it had been ratified, but that did not appear to be the case in Norway. With regard to paragraph 4 of the report, he requested information on the type of investigations the special investigative bodies dealt with and on the role of the public prosecutors. He asked why such special investigative bodies were needed and why the 1,236 cases mentioned had not been dealt with by ordinary investigative bodies.

33. Mr. BEN AMMAR, also referring to paragraph 4 of the report, said that there was a lack of information on the 20 cases relating to the use of force by the police, which might not actually have involved torture or other cruel, inhuman or degrading treatment or punishment. He asked how the special investigative bodies were set up, by whom and what their prerogatives were.

34. As to paragraph 30 of the report concerning the Prosecution Instructions laid down by Royal Decree of 28 June 1985, he said that the best way of ensuring that interrogations did not involve physical abuse or torture was to guarantee that reliable evidence was made available and taken into account and that close cooperation was established with police departments and officials. The police in Norway nevertheless seemed to be successful in establishing such cooperation and there was little evidence that it exacted confessions or statements through the use of violence. He asked whether the Prosecution Instructions gave details of methods of interrogation and whether there were any general rules. If the Instructions were effective, they could also be of use to police forces in other countries and he requested additional information on them.

35. He stressed the importance of the draft optional protocol to the convention and said he had hoped that Norway would give it full support when it was submitted to the General Assembly of the United Nations. He also requested further information on the office of Ombudsman, as referred to in paragraph 13 of the core document, and asked what cases the Ombudsman dealt with.

36. The CHAIRMAN, speaking as a member of the Committee, thanked the Norwegian delegation for its comprehensive report. As far as article 4 of the Convention was concerned, torture was not defined or even referred to in Norwegian legislation, but, since article 4 did not require such a definition, he was not overly concerned. However, the article did require that "each State Party shall ensure that all acts of torture are offences under its criminal law". He wondered to what extent Norway was complying with that requirement and how it dealt with the question of mental torture.

37. Article 5, paragraph 1, called on each State party to take "such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4" in certain cases, such as "When the alleged offender is a national of that State", as stated in paragraph 1 (b), which meant that acts of torture could be punished even if they had been committed abroad. Did section 12, paragraph 3, of the Penal Code, as referred to in paragraph 18 of the report, apply to torture?

38. Paragraph 19 of the report stated that "a court may detain a suspect or take other action to ensure his presence provided that the normal conditions applying to such measures are fulfilled", but he was not sure that such a measure was in keeping with article 6, paragraph 1, of the Convention. Additional information would also be needed to determine whether paragraph 21 of the report, which related to the implementation of article 7 of the Convention, meant that persons would be extradited or judged in Norway. He also hoped that article 8 of the Convention was being properly implemented, but he could not tell from paragraph 22 whether that was the case. With regard to article 9 of the Convention, paragraph 25 of the report stated that, although Norway was a party to the European Convention on Mutual Assistance in Criminal Matters, "assistance can be given to a foreign State irrespective of whether an agreement of mutual assistance has been concluded or not". It should be remembered that, according to article 9, States parties must afford one another the greatest measure of assistance.

39. Turning to the implementation of article 14 on compensation for the victims of acts of torture, he said that Norwegian legislation fell short of the requirements in two ways: it dealt only with financial compensation; and the maximum amount proposed, which were between $20,000 and $25,000, did not, in his view, constitute "fair and adequate compensation". When it had submitted its initial report, Norway had promised that legislation on compensation would be interpreted flexibly. However, more specific guarantees should be embodied in it.

40. Paragraph 41 of the report relating to article 15 of the Convention stated that "Testimonies made during preliminary investigations may only be quoted at the trial on very limited conditions". He asked what the term "very limited conditions" meant. That paragraph also stated that, "If there is a well-founded reason to believe that such a testimony was made under duress or torture, the judge may decide to disregard it as evidence". The word "may" was inadequate, however, because, according to article 15, the judge had to disregard such evidence.

41. He requested further information on paragraph 45 of the report, which referred to "alleged large-scale police brutality in the city of Bergen" and

the fact that "In only one of the 368 cases of alleged abuse that were investigated was sufficient evidence found to charge a police officer with a criminal offence", whereas "15 persons were charged with making false accusations against the police". It seemed to him that, because of the lack of evidence of police brutality, those who had made accusations had automatically been charged and assumed to have made false accusations. Had it been proven beyond a reasonable doubt that they had intended to discredit members of the police force?

42. Mr. Wille, Mr. Myhrer, Mr. Strommen and Ms. Nystuen (Norway) withdrew.

Supplementary report of Argentina (CAT/C/17/Add.2)

43. At the invitation of the Chairman, Mr. Lanus, Mr. Paz and Mr. Mayoral (Argentina) took places at the Committee table.

44. Mr. LANUS (Argentina) thanked the members of the Committee for their interest in Argentina. The Committee's work was of great assistance to his country and the information it provided helped it to combat torture. He would convey to his Government all the concerns raised, including allegations by non-governmental organizations. Argentina had worked to instil respect for democratic values, tolerance and human dignity, a prerequisite to eradicating human rights violations. His Government would appreciate any information and advice that the Committee might provide in helping Argentina achieve those goals.

45. He singled out a number of areas in which initiatives had been taken. With regard to the training of prison staff, educational programmes were placing increased emphasis on teaching tolerance and respect for human rights and dignity. The curriculum for prison officials included courses on constitutional law, ethics and human rights, public law and criminal law.

46. There had been a number of important changes in the legal system. Act No. 23,950/91, amending Act No. 14,467 on the treatment of prisoners, stipulated that, apart from the cases provided for in the Code of Penal Procedure, no individual could be detained without a court order. If the police had sufficient reason to detain an individual, it could do so for no more than 10 hours to check his record, as against 48 hours previously. The Code of Penal Procedure (Act No. 23,984/91) provided that, from the beginning to the end of a criminal trial, the State guaranteed that arrest or detention would be carried out in such a way as to cause the least possible harm to the accused and to the reputation of the persons affected. The liberty of the individual could be restricted only to the extent absolutely necessary for establishing the facts and enforcing the law. The maximum period for which an individual could be held incommunicado had been reduced from 10 days to 72 hours. Detainees had the right to communicate with their defence counsel before being detained incommunicado. A medical examination was compulsory at the beginning of detention: that made it possible to detect any signs of ill-treatment at police stations and thus served as a guarantee for detainees. A special department had been set up for the protection of and assistance to victims. The new Code of Penal Procedure abolished with "spontaneous statements" at police stations. The accused could make a statement only before a judge. The system for prison visits had been amended

by the new Code, which had entered into force on 5 September 1992 and under which the post of judge for the enforcement of sentences had been created to deal with problems in prisons with the assistance of a team of medical, psychological and social welfare experts who monitored conditions of detention in prison.

47. Under decision No. 36/91, the Attorney General of the Nation had instructed court prosecutors to order public prosecutors in courts of first instance with jurisdiction in criminal cases to comply faithfully with their obligations, placing special emphasis on exhausting all means of obtaining evidence in the investigation of certain unlawful acts.

48. Under decision No. 2/92, a computerized register had been created containing allegations of unlawful coercion. Such a register was vital in a country the size of Argentina.

49. Another area where important new developments had taken place was that of the compensation of the victims of detention ordered by military courts. Under Act No. 24,043, compensation had been granted to 8,200 persons who had applied by the deadline of 30 October 1992. Total compensation had amounted to $700 million, which had been earmarked in the budgets for 1993 to 1996. Under Decree No. 70/91 on compensation to persons detained by the police, compensation for a total of $12 million was to be granted in 470 cases and half that amount had already been paid out. The statute of limitations on certain claims for compensation had been abolished.

50. With regard to the applicability of international conventions in Argentine domestic law, he noted that, according to article 27 of the Vienna Convention on the Law of Treaties, Argentina must give precedence to an international convention when it was in conflict with domestic law. When Argentina ratified an international instrument, the provisions immediately become applicable by domestic administrative and judicial bodies. Argentine doctrine provided for a strict interpretation of the Vienna Convention and he hoped that that would dispel any doubts about the applicability in Argentina of international treaties.

51. The CHAIRMAN thanked the representative of Argentina for his statement and noted that Argentina's supplementary report had been submitted with praiseworthy punctuality; it was to be hoped that other countries would follow that example.

52. Mr. LORENZO (Country Rapporteur) thanked the representatives of Argentina for their report and their statement. He was pleased that Argentina welcomed criticism as a form of cooperation aimed at improving an already good human rights situation.

53. The supplementary report referred primarily to the situation at the federal level. A later report should contain more information on the provinces. It would be useful to improve the means available for obtaining information from the provinces and also to ensure that there was an awareness, not only in the capital but throughout the country, of Argentina's obligations under the Convention. He asked whether the words "throughout the territory of

the Republic" in paragraph 3 of the report pertained to national jurisdiction or to jurisdiction at the level of each province.

54. Paragraph 3 spoke of changes in the "substantive" criminal legislation applicable throughout the country, whereas paragraph 4 gave the example of the Code of Penal Procedure, which was not substantive, but procedural. He asked for clarification on that point. To what change did paragraph 3 refer?

55. Concerning Act No. 24,043, he asked who benefited from that provision. It did not seem to cover the cases of thousands of persons who had not come before military tribunals. There were more than 9,000 documented cases of disappearances, the total number probably amounting to 10,000 to 20,000, and it would appear that the Act did not include such victims or their families when those persons had not been brought before military courts. Could the representatives of Argentina provide some information on what legal provisions existed for paying compensation to the families of persons who had disappeared and to the victims of torture and on the practical aspects of the problem?

56. He had heard that, in the city of Córdoba, an arrangement existed under which lawyers could be present in all police stations. He asked for more information about that arrangement, what the results had been and whether it could be extended to other parts of the country.

57. According to an article published on 6 November 1991 in the newspaper Clarín in Buenos Aires, the report of the National Department of Human Rights of the Ministry of the Interior was to be ready in January 1992. He requested a copy of that report and asked whether there were any more recent reports. Presumably that was the same document to which reference had been made in paragraph 41 of the supplementary report.

58. Amnesty International had reported 698 allegations of ill-treatment and torture for the period 1984-1986 and 773 for the period 1989-1991. That did not seem to indicate that any progress was being made in police and judicial investigations of such cases. He hoped that the representatives of Argentina would comment on that point and, more generally, on all investigations of alleged torture for that entire period.

59. A number of non-governmental organizations had reported allegations of ill-treatment by the police, both in the capital and in Chaco and Mendoza provinces. In particular, the Buenos Aires press had recently given wide coverage to the death of a 17-year-old youth, Sergio Gustavo Durán, at Police Precinct No. 1 in Morón, Buenos Aires. Could the representatives of Argentina provide information on that case? Amnesty International and other NGOs had received information on the alleged torture of persons who had attacked La Tablada military barracks in 1989. The judgements in those trials had been based on statements said to have been extracted under torture.

60. He was not sure whether the presidential pardon of October 1989 was in strict compliance with the Convention, in particular with regard to cases in which investigations had been dropped or clemency granted even before a trial had been held. He had in mind the Suarez Mason case and also the case of another military officer who had been extradited from the United States of America to Argentina to stand trial.

61. Mr. BEN AMMAR noted that Argentina had ratified the Convention without expressing any reservations with regard to article 20 and that it had made the declarations under articles 21 and 22. That demonstrated Argentina's determination to prevent acts of torture from being committed and to protect the rights of citizens.

62. He was pleased to note that Argentina considered itself bound by the Vienna Convention on the Law of Treaties and that international instruments took precedence over domestic law. Could the representatives of Argentina indicate where that was stated in Argentine legislative or constitutional provisions?

63. According to paragraph 2 of the report, the states of emergency that had given rise to the declaration of the state of siege suspending the rights and guarantees of citizens on two occasions had not hampered full respect for the principles embodied in the Constitution before, during or after the state of siege. He asked whether the states of emergency and the state of siege had been the subject of an official declaration of which the United Nations Secretariat had been informed; and whether action had been taken to ensure, in accordance with article 2, paragraph 2, of the Convention, that those circumstances were not invoked as a justification of torture and, in accordance with article 4, paragraph 2, of the International Covenant on Civil and Political Rights, and that there was no derogation from article 7 of the Covenant, which provided that no one could be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

64. Amnesty International had reported that some leniency was shown by the Argentine authorities towards officials responsible for acts of torture. He understood that the Government was endeavouring, through the education of police officers, to eradicate certain bad habits that had been inherited from the former regime. Was the Argentine League of Human Rights permitted to play its full role and receive complaints from citizens and was there any human rights institution composed of representatives of the State and of social and humanitarian bodies?

65. He associated himself with Mr. Lorenzo's comments concerning the payment of compensation to victims. The computation of the period of compensation referred to in paragraph 8 of the report appeared to be valid for certain cases, but it might not be so in others where torture and ill-treatment occurred during a pre-trial period that might last for months or even years.

66. He questioned the extent to which article 13 of the Convention had been respected in Case No. 75,787 A, referred to in paragraph 25 of the report. The acts in question had been committed in November 1988, but the case had not been brought before the court until 23 May 1991. He would like to have some details of the acts that had been committed, the reason for the delay in bringing the case to court and the anticipated date of the final sentence.

67. Mr. MIKHAILOV commended the supplementary report and the fact that it had been submitted on time. Argentina appeared to have done a great deal since the submission of its initial report to bring its legislation into line with the Convention.

68. He asked whether the 1853 National Constitution referred to in paragraph 2 of the report could be regarded as effective legislation against torture. It might be assumed that an instrument of so early a date might be out of step with the contemporary democratic movement, in which case he wished to know whether there was any intention of amending or replacing it. He further wished to know whether effective use could be made of the procedure for applying for compensation described in paragraph 14.

69. On paragraph 18 of the report, he asked whether any specific machinery existed for applying the principles of the Inter-American Convention to Prevent and Punish Torture and what relationship existed between that Convention and the United Nations Convention against Torture.

70. Welcoming the new provisions in the Code of Penal Procedure referred to in paragraph 37 of the report, he asked whether judges were applying them in practice. Did any differences exist between the institutionalization of Christian thought, referred to in paragraph 36, and the provisions of the Inter-American Convention and the United Nations Convention against Torture and how were Christian principles and teaching applied in relation to the Convention? In particular, how was the problem of the death penalty dealt with in Argentine legislation and in practice in the light of the institutionalization of Christian thought?

71. Mr. EL IBRASHI joined previous speakers in commending the Argentine delegation on its comprehensive report. He had visited Argentina and witnessed the Government's efforts to restore democracy.

72. There was some contradiction between paragraph 2 of the report, in which it was stated that the states of emergency had not hampered full respect for the principles embodied in the Constitution, and article 1 of the decree reproduced in paragraph 6, which referred to persons who, during the state of siege, had been placed at the disposal of the National Executive by its decision and to civilians detained on the orders of the military courts.

73. He asked what methods were used by the Office of the Attorney General of the Nation to monitor the Government's powers, as referred to in paragraph 13, and with what results.

74. Why did the application for the benefit referred to in paragraph 14 have to be submitted to the Ministry of the Interior? Was that body's decision final or could it be appealed against to a judicial body? He would like to know more about the way in which amicable settlements, referred to in paragraph 16, were reached. He understood that a judicial procedure also existed. Was that applied for through the Ministry of the Interior or could direct application be made to the courts?

75. Referring to the statement in paragraph 18 that, when the relevant basic law had been amended, the courts and other bodies responsible for its application would be established, he wished to know what kind of new courts were envisaged and what their exact role would be.

76. He looked forward to hearing the Argentine representative's reply to the questions raised by other speakers about the Amnesty International report,

particularly with regard to the presidential pardon granted to military officers before trial.

77. Mr. SORENSEN joined in thanking the Argentine delegation for the report and its introduction. There was bound to be torture in any dictatorship and no real democracy could exist in its presence. It was thus a matter of fundamental importance. In the transition from democracy to dictatorship, three main areas of action were needed: compensation to the tortured; punishment of the torturers; and education of the public and, specifically, of police and doctors. He understood that, during the current year, 8,200 victims had together received $700 million. It was also important for them to receive moral and medical compensation, since they could suffer from severe sequelae for the rest of their lives if not treated. Those treating them were often threatened rather than supported.

78. On the question of punishment of torturers, he had taken note of the Due Obedience Law and the question of presidential pardon. He had further noted the three cases, referred to in paragraph 25 of the report, in which the substantive provisions of the Penal Code had been applied. Were those the only cases to have been brought before the courts? In paragraph 25 (b), it was stated that the accused officer had been given a suspended sentence of one year's imprisonment and sentenced to specific disqualification because he had been considered guilty of the crime covered by article 144 (3) of the Penal Code. That article, however, as quoted in the initial report of Argentina (CAT/C/5/Add.12/Rev.1), prescribed a period of imprisonment of 8 to 25 years. He would like to hear the Argentine representative's comments on that point. No mention had been of the punishment of doctors who had been involved in cases of torture or of any educational measures applied to them. Yet they were in many ways the key element in such cases and should receive the necessary education in medical ethics, which should form part of the medical curriculum.

79. Mr. BURNS said that he agreed with Mr. Sorensen's comments. The Argentine Government should be commended on its efforts to introduce legal provisions into its system with a view to enhancing and protecting human rights, but those provisions were merely an external manifestation of what was desirable and efforts had to be made to put them into practice. The material provided by Amnesty International and Americas Watch revealed a highly disturbing state of affairs in Argentina. Mr. Sorensen had pointed out that only with the assistance of the medical profession could the police or other authorities successfully engage in acts of torture. The material submitted by the two non-governmental organizations concerned also showed that some of the lower levels of the judiciary were failing to perform their functions. He understood that Governments could act only on very strong evidence and in a way that did not destroy the system, but examining magistrates must be made aware of their real obligations and be prepared to fulfil them. It was encouraging to note that, when the appellate courts received evidence that erroneous decisions had been taken at a lower level, those courts were not afraid to act properly and had done so. It was distressing, however, that the victims described by Amnesty International appeared to be young, from poor districts and frequently black or indigenous.

80. He commended the Government on its efforts at the legal level, although he was puzzled about some of them. It had been stated that, under the Code of Penal Procedure, the period for which a person could be held incommunicado had been reduced from 10 to 3 days, but he was disturbed by the fact that the Government considered it legally viable to hold anyone incommunicado for any period whatsoever. In his view, advance access to a lawyer did not offer any protection. He sincerely hoped that the Government's action would prove effective, but it appeared that that would be difficult in view of the attitude of the policing agencies. He looked forward to seeing the next report of Argentina in due course.

81. Mr. LORENZO (Country Rapporteur) said it was a well-established principle in Argentina that international law took precedence over national law, but he would be interested to know whether there was any specific legislation or jurisprudence in that regard. He understood that the Supreme Court had handed down certain judgements in which international conventions had not been given such precedence.

82. There had been articles in the Argentine press on the question of the independence of the judiciary and particularly on the methods of selection and promotion of judges. That question was closely linked with the protection of human rights. The methods generally applied in Latin America for the selection and promotion of judges were outdated and there were frequent reports that those appointed or promoted had certain technical, moral or social shortcomings. He asked whether any reform of the Constitution was anticipated to make the system of appointing judges less political.

83. Mr. LANUS (Argentina) recalled that Mr. Burns had mentioned the Amnesty International report in which there was a reference to "blacks". He was not aware of any "blacks" in Argentina, but there were certainly no racial problems and no racial or ethnic distinctions were made.

84. Mr. BURNS said that the Amnesty International report referred at various points to "poor and dark-skinned people", to "racial characteristics" and to "darker-complexioned people and indigenous people". The meaning of the report was clear regardless of the terms used and he would appreciate the Argentine delegation's comments on it.

85. The CHAIRMAN, speaking as a member of the Committee, said that the consequences of the former dictatorship appeared to continue to exist in certain Government bodies and in some parts of the police forces and the army. The most urgent task for the Government was to ensure that all the bodies concerned became aware that, in a democratic country, the methods they sometimes resorted to were inadmissible. The Argentine delegation had referred to various means of dealing with the situation. Those measures should be intensified, possibly with the assistance of the Centre for Human Rights. The organization of a symposium might be useful. He, too, had seen the reports on the selection of judges to which Mr. Lorenzo had referred. He looked forward with interest to receiving any further information the Argentine delegation could provide.

The meeting rose at 1.15 p.m.